

GREGORY D. ANDERSON,)
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Petitioner,)
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vs.)
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UNITED STATES OF AMERICA,)
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Respondent.)
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ORDER

Civil Procedure and the Federal Rules of Criminal Procedure, to the extent that they are not inconsistent with any statutory provisions or these rules, may be applied to a proceeding under these rules.”). Rule 8(a) of the Federal Rules of Civil Procedure requires pleadings to contain a “short and plain statement of the claim showing that the pleader is entitled to relief...” Fed. R. Civ. P. 8(a)(2); Rule 2(c), Rules Governing Section 2255 Proceedings for the United States District Courts (the § 2255 motion to vacate must “substantially follow ... the form appended to these rules.”). Rule 15(a) of the Federal Rules of Civil Procedure allows a party to amend his pleading once as a matter of course if certain time restrictions are met. Fed. R. Civ. P. 15(a)(1). In all other cases, a party may amend his pleading only with the opposing party’s written consent or with leave of the court. Fed. R. Civ. P. 15(a)(2). “The court should freely give leave when justice so requires.” *Id.* The general rule is that “an amended pleading supersedes the original pleading, rendering the original pleading of no effect. Thus, if an amended [pleading] omits claims raised in the original [pleading], the [party] has waived those omitted claims.” Young v. City of Mount Ranier, 238 F.3d 567, 573 (4th Cir. 2001).

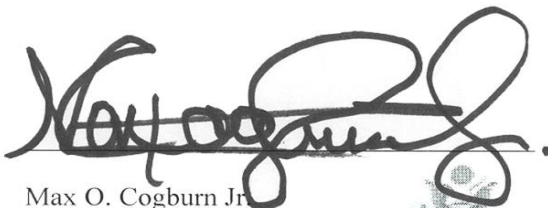
The pending motions were filed more than 21 days after the original § 2255 Motion to Vacate, so leave of Court is required before amendment will be permitted. Petitioner’s voluminous § 2255 Motion to Vacate, (Doc. No. 1), Motion for Leave to Supplement, (Doc. No. 3), and Motion for Relief, (Doc. No. 4), are not “short and plain” statements, and they attempt to present Petitioner’s claims in a piecemeal manner. Petitioner will not be permitted to do so. The Motion for Leave to Supplement, (Doc. No. 3), and Motion for Relief, (Doc. No. 4), are denied without prejudice for Petitioner to file a single succinct Amended § 2255 Motion to Vacate that presents all his claims for relief, subject to all timeliness and procedural requirements. See generally 28 U.S.C. § 2255(f); Mayle v. Felix, 545 U.S. 644 (2005) (discussing relation back).

For the reasons stated herein, Plaintiff shall have thirty (30) days in which to file a superseding Amended Motion to Vacate in accordance with this order. If he chooses not to do so, the Court will proceed on the original Motion to Vacate, (Doc. No. 1), without considering the subsequently filed materials.

IT IS, THEREFORE, ORDERED that:

1. Petitioner shall have thirty (30) days in which to file an Amended Motion to Vacate in accordance with this Order. If Petitioner fails to file an Amend Motion to Vacate within the time limit set by the Court, this action will proceed on § 2255 Motion to Vacate, (Doc. No.1), as originally filed.
2. Petitioner's Motion for Leave to Supplement, (Doc. No. 3), and Motion for Relief, (Doc. No. 4), are **DENIED**.
3. The Clerk is directed to mail Petitioner a new § 2255 Motion to Vacate form.

Signed: January 26, 2018



Max O. Cogburn Jr.
United States District Judge